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January 15, 2002

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

Re: Response to Comments in Connection with Inv. No. TA-201-73

Dear Madam Secretary:

On behalf of the European Steel Tube Association., enclosed please find responses to written comments submitted in accordance with 66 Fed. Reg. 54321 (October 26, 2001) regarding the above-referenced matter. . These comments are filed pursuant to the United States Trade Representative's October 26, 2001 and December 28, 2001 Federal Register Notices (66 Fed. Reg. 54321; 66 Fed. Reg. 67349).

Respectfully submitted,
BARNES, RICHARDSON & COLBURN

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BEFORE THE
TRADE POLICY STAFF COMMITTEE
OFFICE OF THE
UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT

In the Matter of Review of the Determination of the
U.S. International Trade Commission in
Certain Steel Products - Investigation No. TA-201-73

RESPONSES TO COMMENTS REGARDING
PROPOSED ACTIONS UNDER SECTION 203

These responses to various comments filed in the above-entitled investigation are filed pursuant to 66 Fed. Reg. 54321 (October 26, 2001) and 66 Fed. Reg. 67349 (December 28, 2001), on behalf of The European Steel Tube Association and the pipe mills which are members of its national associations. These comments specifically address the effect of any trade restrictive remedy on the importation of welded **large diameter line pipe**, (“LDLP”).

ESTA member companies provide large diameter pipe for major gas and oil pipeline projects throughout the continental and offshore United States, including projects needed to address the growing power demand in areas like the West and the Southeast. European pipe has traditionally supplemented domestic mills, which have limited capacity and are unable to satisfy the demand of major projects such as those elaborated upon by Williams and Coflexip, major developers and engineers of pipeline systems for oil and gas. Due to its unique market and limited supply, large diameter line pipe bears no relationship to the steel industries which are subject to this investigation, and any trade restrictive remedy which is cast broadly to cover this

product will undoubtedly undermine power development projects **with no benefit to the domestic pipe industry**, almost all of whom manufacture other products.

I. OVERVIEW

LDLP is not a product which is threatening injury to any U.S. industry. It is included here only because the net was cast too widely in the ITC's definition of welded pipe, and the risks – both political and economic – of *imposing* trade restrictions on this product are far greater than those of excluding it from remedies. Failure to differentiate it will strike a severe blow to energy development and power projects in the United States while helping no pipe producers. In fact, for reasons stated below, inclusion of LDLP in a remedy will almost certainly harm the domestic standard pipe producers, which is the only portion of the industry arguably threatened. In so arguing, we do not suggest that the TPSC should overturn the ITC's underlying determination; rather, that the President should, and *must*, exercise his discretion so as to craft a remedy which is best calculated to remedy the harm where it has occurred, and not visit damage on previously unharmed sectors of the industry and economy

At the outset we note that, to the best of our knowledge, two of the most important domestic producers of LDLP, Berg Steel and Napa Pipe, have not submitted comments regarding what action, if any, the President should take under section 203(a) of the Trade Act of 1974. These companies are operating at or near full capacity, with current and projected orders scheduled to dominate or exceed their capacity for the next two-to-three years. Other domestic LDLP producers, American and Stupp, have participated only marginally in this investigation, but their production capabilities are limited to only the smaller sizes of LDLP, *i.e.* from 16-24" in outside diameter, and their comments are combined with those of the Committee on Pipe and

Tube Imports, limited to a discussion of welded pipe *other than* LDLP, clearly indicating that their primary concern is with welded tubular products other than LDLP.

Both the Japanese and Korean respondents have suggested that the appropriate remedy for the overall category of welded tubular products other than OCTG is a tariff-rate quota (“TRQ”) as recommended by certain ITC commissioners, but with the quotas being allocated on a country-specific basis, rather than globally. As discussed in our previous submissions, the application of such a remedy to the entire ITC Category 20 (i.e., all carbon and alloy welded pipe and tube, other than OCTG, except for line pipe less than sixteen inches in outside diameter) will disproportionately negatively impact both the domestic and foreign producers of LDLP, will negatively impact domestic producers of welded tubular products other than LDLP, and will compromise the United States energy infrastructure. The problems inherent in this approach will only be exacerbated if the TRQ is allocated on a country specific basis.

The inequities and ineffectiveness inherent in the establishment of trade restrictive measure covering all welded tubular products, inclusive of LDLP requires a separate remedy for LDLP from the rest of this category. Because of

1. the project nature of most LDLP imports;
2. the insufficiency of domestic capacity for this product;
3. the relative disinterest of the domestic industry for the imposition of a trade restrictive remedy on this specific product;
4. the lack of any injury or threat of injury to the domestic producers of this specific portion of the pipe and tube products covered by this category; and
5. the importance of LDLP in the maintenance and expansion of the domestic energy infrastructure,

no trade restrictive remedy should be imposed that affects LDLP. If, however, the President finds that it is necessary to impose a trade-restrictive remedy on LDLP, such remedy should

consider LDLP separately, and should not restrict import levels below those for the most recent period, 2001.

II. NO TRADE RESTRICTIVE REMEDY SHOULD BE APPLIED TO LDLP

A. The Domestic Industry Producing LDLP is not Being Seriously Injured or Threatened with Serious Injury by Import Competition

The ITC determined that the category of *all* welded carbon tubular products other than OCTG was not being seriously injured by import competition, but was only threatened with such injury. A careful reading of the ITC decision in this case as well as in the recent antidumping investigation, illustrates that the imported LDLP covered by this investigation is not a source of injury or threat of injury to the domestic industry producing LDLP and that this product was categorized with other pipe in the injury and remedy recommendation merely by reason of a data collection expedient employed by the ITC at the outset of the investigation. That categorization need not slavishly bind the President's remedial decision, and we do not hereby suggest that he overturn the ITC decision – only that he take account of the facts on the record to craft a remedy accordingly.

1. The ITC Has Determined that Imports of LDLP from Countries Other Than Japan Have Not Contributed to Material Injury

LDLP was included in the only category for which a remedy was recommended on the basis of a threat finding alone. Furthermore, in its December 2001 determination in *Certain Circular Welded Large Diameter Line Pipe from Japan*, the Commission stated that:

... [T]here were large volumes of non-subject imports present in the U.S. market during the period examined, especially in 2000. However, ... there are some indications in the record that these non-subject imports were sold primarily for project uses, and not to

distributors, where the domestic industry suffered its most significant loss of sales. We also note that the average unit value of non-subject imports in 2000 (the year in which the domestic industry's condition deteriorated) was considerably higher than that of subject imports, and in interim 2001, the average unit value of non-subject imports was considerably higher than that of the domestic like product. Moreover, the trends in the average unit values of subject and non-subject imports was considerably higher than that of the domestic like product.¹

Therefore, in addition to not being a cause of *serious injury* in this Section 201 decision, imports of LDLP from countries other than Japan have not contributed to *material injury* to the domestic producers of LDLP under the standards of Title VII. Given the more stringent standards applicable under Section 201, it requires a serious departure from logical reasoning to conclude that imports that have not threatened to cause *material injury*, could nonetheless threaten to cause *serious injury*. LDLP simply does not belong in this category, and must be treated separately.

2. The ITC Decision Shows that Imports of LDLP Have Not Contributed to the Threat of Injury

In making a determination whether a threat of serious injury exists, the Commission considers (1) whether there is a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, productivity, or employment (or increasing underemployment) in the domestic industry, (2) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development, and (3) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to,

¹ In Circular Welded Large Diameter Line Pipe from Japan, Inv. No. 731-TA-919 (Final), USITC Pub. 3464 (November 2001) at 21.

or on imports of such article into, third country markets. The information in the Commission's report in the current investigation as well as the information gathered in the recent antidumping investigation show that LDLP imports are not a source of a threat of injury to the domestic industry producing either LDLP or other welded pipe.

As stated above, the Commission found in the antidumping determination that **imports** of LDLP from countries other than Japan **have a higher average unit value** than either the domestic products or other imported LDLP.² The higher priced product cannot threaten injury, either to the LDLP industry, or to a combined welded pipe industry.

The Commission noted that the demand for LDLP is growing, and is likely to grow in the near future. The two largest producers of LDLP, Berg Steel and Napa Pipe, currently have contracts for projects that will occupy the companies for multiple years, with other projects scheduled that can not possibly be built with domestically sourced LDLP alone. It is also difficult to understand how such increased demand and capacity utilization are reflective of an injurious threat to either the LDLP industry or to a combined welded pipe industry.

The Commission was cognizant of these LDLP demand trends, but explained them away by stating that the increased demand for LDLP does not offset the demand trends for all welded tubular products. This conclusion, in addition to indicating that LDLP is a different like product from other welded pipe, reveals clearly that the only reason that LDLP is covered by the remedy recommendation is that, notwithstanding recent precedent, it was caught up with the wide variety of commodity-grade and standard, multiple-application welded tubular products. The Commission's explanation sounds more like a rationalization for the compression of product

² *Id.*

lines necessitated by this massive investigation's severe time constraints, than a justification for restraining imports of LDLP.

B. Any Injury, or Threat Thereof, is Adequately Remedied by the Recent Antidumping Order Against LDLP from Japan

Recently, the Commission imposed a dumping duty of 30% on the importation of LDLP from Japan. This dumping order is likely to remove up to 219,418 tons of LDLP from the domestic U.S. market, based on 2000 import figures. This represents 32% of the LDLP imported into the United States in 2000. The removal of such a large supply of LDLP is certain to offset any threat of injury that the Commission might have found with respect to this product, if the Commission had remained consistent with its precedent and investigated LDLP as a separate like product.

C. Since the Domestic Industry Producing Large Diameter Line Pipe is Not Injured or Threatened with Serious Injury, the Imposition of a Trade-Restrictive Remedy is Inappropriate

The decision of the Commission to include LDLP within Category 20 for purposes of this investigation, and that domestic producers of Category 20 products were threatened with injury by import competition, does not bind the President to proclaim a remedy which covers all of that Category, especially if an identifiable portion of it is not associated with the threat. The proclaimed remedy must balance the adverse effect of any trade restrictions with the benefit to be provided. As discussed above, the domestic producers of LDLP, as a subgroup of welded pipe producers generally, are not injured or threatened with injury from import competition. Therefore, any trade-restrictive remedy will be excessive. Indeed, trade restrictions that are applied to LDLP are likely to result in injury to the domestic producers of this product, for the following reasons.

Oil and gas pipeline projects require the use of line pipe of different grades, and some of this pipe is not produced in the United States, or is produced in insufficient quantities to meet demand. Furthermore, pipelines are extremely capital intensive. Line pipe is ordered specifically for certain projects, and must be delivered on a designated schedule, or costs increase rapidly. Failure to meet the delivery schedule will result in substantial penalties. Under these circumstances, more than one line pipe producer has been forced to acquire line pipe or steel plate from foreign sources in order to meet the delivery schedule. Perhaps this, together with the lack of injury or threat thereof to the domestic industry, is why one is hard pressed to find any mention of line pipe in any of the domestic industry's filings with the TPSC. In fact, the integrated industry (US Steel and Bethlehem) did not even mention it. The pipe industry in the United States is concerned about standard pipe imports, not large diameter line pipe (particularly line pipe from Europe, which was found in the Japanese antidumping investigation to be primarily complementary to, not competitive with, domestic supplies).

III. ANY TRADE RESTRICTIVE REMEDY SHOULD CONSIDER LDLP SEPARATELY

A Trade-Restrictive Remedy Applied to Welded Tubular Products As A Whole Will Disproportionately Negatively Impact LDLP and Will Not Benefit the Vast Majority of Domestic Welded Tubular Products Producers

Category 20 includes a wide variety of welded tubular products other than OCTG. Included within this category are various types of commodity-grade standard, mechanical and structural tubing that are generally sold through distributors and retail channels, as well as high-valued LDLP that is manufactured for specific pipeline projects and sold directly to the pipeline producer. As such, it is impossible to formulate a single trade-restrictive remedy that will

actually benefit those producers most threatened with injury while not excessively burdening LDLP and pipeline production.

1. Unlike Other Products of Category 20, LDLP is High Priced, High Weight and Project Oriented.

Any trade-restrictive remedy must recognize the disparate impact that it is likely to have on the various products included within the scope of the remedy. Any trade-restrictive remedy will have the greatest impact on LDLP, as LDLP is a high unit value product that is not sold on a continual and regular schedule into distributor inventories.

Any remedy based on the imposition of a quota, including a tariff-rate quota as proposed by the majority at the ITC, would be quickly filled by imports of commodity grade product into inventories, as foreign producers push early-quota-period sales to distributors in order to assure that their product enters the U.S. market without the being assessed additional duties. LDLP, however is sold on a project basis, and is not sold through distributors.³ LDLP producers cannot front-load their shipments at the beginning of the quota period to assure that quota will be available and that, in the case of a TRQ, additional duties are not assessed. LDLP can not be rushed to the pier in order to increase its chances of receiving in-quota status. Additionally, being larger and heavier than the other products included in Category 20, any single shipment of LDLP is more likely to be the shipment that triggers the quota limitation. Because of LDLP's inherent limitations as compared to the other products in this category, LDLP is more likely to be subject to the quota limitations. Any additional duties assessed under a TRQ are likely to be borne by LDLP. Due to its high unit value, additional duties on LDLP, whether assessed

³ See, *Certain Circular Welded Large Diameter Line Pipe from Japan*

pursuant to a TRQ or to a flat tariff increase, will be exorbitant, and will likely result in a loss to the domestic pipeline industry and undermine efforts to expand the U.S. energy infrastructure.

2. By Virtue of a Recently Imposed Antidumping Order, Japanese Respondents Will Likely Choose to Export Welded Tubular Products Other Than LDLP

The problems associated with a single trade-restrictive remedy on *all* category 20 products, inclusive of LDLP, are readily apparent when one considers that Japanese industry would have a strong incentive to product-shift from LDLP to welded tubular products other than LDLP. As a result of a recent antidumping investigation, shipments of LDLP from Japan are subject to an antidumping duty of 30.8%,⁴ a rate high enough to largely preclude Japanese-origin LDLP from the U.S. LDLP market. Japanese producers who are capable of selling other welded tubular products manufactured in other mills will naturally try to export these other products in order to make up for any loss of sales of LDLP.

Under ordinary circumstances, this product-shifting from LDLP to other welded tubular products will result in an increased competition for these other products. The impact of product shifting, however, will be exaggerated under a quota system that includes both LDLP and other welded tubular products as there is an additional incentive to ship goods before the quota is filled.

⁴ The Japanese Respondents were recently found to be dumping LDLP on the U.S. market. Based on a review of sales during 2000, the International Trade Administration found a dumping margin of 30.8%. 66 Fed. Reg. 47172 (September 11, 2001). This dumping margin is likely to exclude Japanese LDLP from the U.S. market. In fact, Japanese sales of LDLP dropped precipitously during the antidumping investigation. This drop was in apparent anticipation of the institution of an antidumping order.

B. Country-Specific Quota Compounds the Problems Associated with A Single TRQ on All Welded Tubular Products of Category 20

The Japanese Respondents have argued for a tariff-rate quota based on imports of welded tubular products in the year 2000, with the quota allocated on a country specific basis.⁵ Should this recommended remedy be adopted, the Japanese would be awarded a share of the import market that is based on an inflated volume of imports dumped into the United States in 2000. As discussed above, however, the Japanese⁶ Respondents are largely precluded from selling LDLP in the U.S. market as current sales face an antidumping duty of 30.8%.

The remedy proposed by the Japanese Respondents would result in either (1) a wasteful and inefficient use of the quota, or (2) a flood of Japanese welded tubular products other than LDLP into the U.S. market.⁷ Under the first possibility, the Japanese Respondents will be unable to fully utilize their quota allocation since the dumping order is likely to make Japanese LDLP uncompetitive in the U.S. market. This structural underutilization of the quota effectively results in a reduction of the quota below that which is recommended. Given the fact that the domestic pipe industry is not injured, but merely threatened with injury, such reduction of the quota is unwarranted.

⁵ See, *Comments of Kawasaki Steel Corporation, Nippon Steel Corporation, NKK Corporation, and Sumitomo Metal Industries, LTD. On the Remedy Recommendation of the U.S. International Trade Commission Regarding Import Relief Under Section 203 of the Trade Act of 1974 In Inv. No. TA-201-73 for Welded Tubular Products Other Than OCTG (Category 20)*, Filed By: Arent Fox Kinter Plotkin & Kahn, PLLC (January 4, 2002). See also, *Comments of Korean Iron and Steel Association*. Filed by: Kaye Scholer LLP (January 4, 2002).

⁶ Mexican shipments of LDLP are currently being investigated for dumping. In all likelihood, Mexican producers will also be effectively precluded from selling LDLP in the U.S. market.

⁷ We do not challenge the Korean Respondents' assertion that a country-specific quota will avoid a "rush to the dock." We note, however, that given the disparity of the products included in this category, and given the recent antidumping order against Japan, the country-specific quota allocation will have a negative impact on the majority of the domestic welded tubular products industry.

The second possibility is equally unjustified, and will result in an injury to the domestic pipe industry. As the Japanese Respondents are largely unable to sell LDLP in the U.S. market, Japanese producers will have an incentive to ship welded tubular products other than LDLP into the U.S. market.⁸ Based on the shipments of LDLP from Japan and Mexico into the United States in 2000, this would result increased imports of 247,000 tons of other welded tubular products into the United States. At the same time, this quantity of LDLP is likely to be unavailable to U.S. pipeline producers. Under this second possibility, therefore, the majority of the domestic welded tubular products industry, *i.e.* the 70% of the domestic industry (based on volume) that does not produce LDLP, would be injured as the entire Japanese portion of the quota is used to allow for the shipment of welded tubular products other than LDLP. At the same time, there will be reduced availability of LDLP to fulfill the needs of the domestic pipeline industry, a demand that cannot be satisfied by the domestic LDLP industry alone.

Finally, in an interesting effort to have one's cake and eat it too, the Japanese proposal urges the President to base country-specific quotas on 2000 trade date – the last year before dumped LDLP from Japan was effectively precluded from the market – ostensibly because the 2001 data is “skewed” by a German “surge” of imports, all of which, as Japanese respondents and the ITC are fully aware, was attributable to one large LDLP project in the U.S. and was imported by the same domestic U.S. pipe mill that initiated the antidumping investigation against Japan. Thus, the Japanese proposal serves the triple purpose of maximizing their own product shifting, restraining one of their major foreign LDLP competitors, and visiting payback on a domestic antagonist. This clever bit of intramural intrigue is little more than Houdini's diversion

⁸ Generally, LDLP can not be made on the same equipment as other tubular products. The large Japanese quota allocation under this proposal would be used either by producers who do not produce LDLP or by producers who have non-LDLP producing facilities.

from what should be the issue at hand – how to address perceived threat of injury to the domestic manufacturers of *standard* pipe, since LDLP mills are not at risk, now that the antidumping order against Japan is in place. Quota approaches like the one endorsed by Japan would undoubtedly do more harm than good to that standard pipe industry, and should clearly be rejected.

C. Removing LDLP From Any Trade-Restrictive Remedy Imposed on Products of Category 20 Eliminates Trade Distortion and Improves the Remedy's Effectiveness

The provision of a separate remedy for LDLP removes the trade distorting effect of the imposition of a trade-restrictive remedy on Category 20 products, as there will be no incentive to product shift. Based on the remedy recommendation of the ITC, the TRQ quota volume for all Category 20 products other than LDLP would be 2,085,400 short tons in the first year.⁹ ESTA takes no position here as to whether this *non*-LDLP quota should be allocated on a country specific basis, since its LDLP members are not participants in that industry or market.

IV. SHOULD A TRADE-RESTRICTIVE REMEDY BE IMPOSED AGAINST LDLP, THE REMEDY SHOULD CONSIDER LDLP SEPARATELY AND NOT REDUCE IMPORTS BELOW 2000 LEVELS.

No trade-restrictive remedy is warranted with respect to LDLP. As discussed above, however, if LDLP is to be subject to a trade restrictive remedy, the formulation of a common remedy for all welded tubular products, inclusive of LDLP, will be ineffectual, will disproportionately affect LDLP and domestic pipeline producers, and will be excessively distort trade in welded tubular products. Therefore, any remedy must consider LDLP separately.

⁹ This is based on the recommendation of Commissioners Koplan and Miller (2.60 million short tons minus 514,600 short tons (quantity of LDLP imported in the year 2000). Under the recommendation of Commissioners Okun and Hillman the quota level would be set at 1,054,843 short tons in the first year, which represents the recommended quota limit, 1,400,443 short tons minus the non-NAFTA imports of LDLP – 345,600 short tons).

In this investigation the ITC did not conclude specifically whether the domestic producers of LDLP are being injured or threatened with injury by import competition. As discussed above, a careful reading of the Commission's decisions in both the present Section 201 investigation and the recent antidumping investigation concerning circular welded large diameter line pipe from Japan indicates that neither injury nor threat is present with respect to LDLP. The Commission, however, included LDLP with a category of products for which a threat of injury was found. Using this threat determination as a basis for imposing a trade-restrictive remedy on LDLP, such remedy must be limited so as to prevent imports from rising, but not to reduce the level of import competition.¹⁰ Given the project nature of LDLP demand, it is difficult to find a representative period for the determination of an appropriate quota. As discussed above, 2000 import figures are distorted by the unfair trade practices of Japan, and perhaps Mexico.

The 2001 import figures are the most representative. These import statistics illustrate the project-nature of the LDLP market and the fact that a single large project can suddenly increase demand. 2001 import statistics reflect imports by domestic pipe producers of both LDLP and pipe needed to meet the delivery schedule for the Gulfstream project.¹¹ As demonstrated by Berg's experience in 2001, an inability of the domestic industry to acquire pipe and steel plate from foreign sources in order to meet the demands of the domestic pipeline industry will have a

¹⁰ See, Commission's Majority Determination at 402. ("Given that we have found threat of serious injury, the intent of our recommended remedy is to prevent imports from rising to a level that would cause serious injury.")

¹¹ The 2001 trade statistics include the quantity of LDLP that was manufactured in Florida with U.S. labor, under foreign trade zone procedures. See, Pre-Hearing Injury Brief filed on behalf of the European Steel Tube Association, (September 10, 2001) at page 7. Submission to the International Trade Commission of Berg Foreign Trade Zone data filed on behalf of Europipe (October 9, 2001). Testimony of Mr. Ronald Hoepner, Vice President The Williams Companies, Inc. Remedy Hearing Transcript at page 916. November 8, 2001.

detrimental effect on the domestic producers of LDLP and will result in a further tightening of the U.S. energy market.

V. WHILE THERE IS NO NEED FOR TRADE RESTRICTIONS ON LDLP, ANY TRADE-RESTRICTIVE REMEDY MUST EXCLUDE CERTAIN LDLP PRODUCTS AND CERTAIN STEEL PLATE USED TO MAKE LDLP

A. LDLP Used in Deep Water and Other Harsh Environments Must Be Excluded From Any Trade Restrictive Remedy

The ITC recommended that certain specifications of LDLP be excluded from any trade restrictive remedy.¹² This is the only instance where the ITC recognized the need for specific exclusions. While this exclusion recommendation does not sufficiently address the concerns of the domestic pipeline industry, it recognizes that the LDLP industry differs from any other product considered in this investigation.

The LDLP included in the ITC's recommended exclusions are used in deep water, and other environmentally harsh situations. This pipe must be manufactured to the highest specifications to protect against serious failures. This pipe is not produced in the United States, and **no U.S. producer has expressed any objection to the exclusion of these products from any trade-restrictive remedy.** We reiterate our request that these items be excluded.

B. All LDLP with an Outside Diameter in Excess of Twenty-Six Inches, Regardless of Wall Thickness, Must Be Excluded From Any Trade-Restrictive Remedy

These pipe exclusions, however, are overly narrow. The only producers of LDLP to take a formal position concerning overall welded tubular products in this investigation are American Pipe Division and Stupp Corporation. These companies are incapable of producing LDLP with an outside diameter greater than 26 inches. Therefore, we propose that any restrictive remedy be

limited to pipe with an outside diameter less than or equal to 26 inches and that all welded LDLP with an outside diameter in excess of 26 inches, regardless of wall thickness, be excluded from any remedy.

C. Certain Steel Plate Must Be Excluded From Any Trade-Restrictive Remedy

As discussed in our previous submissions, certain steel plate must also be excluded from any trade restrictions, as also set forth in the request of Berg Pipe. This plate is a required input for domestic producers of LDLP and is unavailable from domestic mills. As discussed above, a significant portion of the product recorded in 2001 as imports of LDLP are actually imports of steel plate used to manufacture LDLP in Florida, using U.S. facilities and labor, under U.S. foreign trade zone procedures.

VI. SHOULD A TRADE-RESTRICTIVE REMEDY BE IMPOSED ON LDLP, A SHORT SUPPLY MECHANISM MUST BE INCLUDED

Any trade-restrictive remedy that affects LDLP must include a short supply mechanism that creates the minimal administrative burden on the domestic pipeline industry and adequately addresses the long lead times for domestic pipeline projects. Such a short supply mechanism is required regardless of the type of trade restrictions implemented so as to provide greater predictability in the line pipe procurement process.

Pipelines undergo an arduous regulatory process that requires many years of planning and the acquisition of land rights. Williams currently has projects planned with initiation dates in 2006. Procurement contracts are being considered for pipeline projects that are not scheduled to start production until 1st quarter 2004. Bidding for projects is often locked in a year or more in advance. The imposition of a trade restrictive remedy that may affect these plans creates

¹² See, Majority at 397, n. 123.

significant additional risk in the pipeline production process, without necessarily providing any additional benefit to the domestic LDLP industry. A short supply mechanism is necessary to moderate this additional risk and to add predictability to the procurement process.

A short supply mechanism, therefore, must be forward-looking and provide the certainties necessary for the pipeline business. While it may be appropriate to impose a trade-restrictive remedy in order to offset any threat of injury found, the institution of additional business uncertainty cannot benefit domestic producers of LDLP or the U.S. economy as a whole.

VII. CONCLUSION

The record of this investigation indicates that no trade-restrictive remedy is justified with respect to LDLP. This product was included in the ITC's remedy recommendation merely as a residue of the Commission's early data collection decisions. If, however, a trade restrictive remedy is imposed that affects LDLP such a remedy must consider LDLP separately. LDLP must not be subject to the same quota pool as the other products included in Category 20. A separate remedy affecting LDLP must allow for the project nature of the demand for this product, must exclude certain large diameter line pipe and steel plate that is not produced in the United States, or is produced in an insufficient quantity to meet domestic demand, and must include a short-supply mechanism that allows for the predictability and planning required by the U.S. pipeline industry

Respectfully submitted,

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